

REMARKS

The Examiner has made a requirement for restriction between the following groups of claims:

- Group I: Claims 1-10, drawn to an electrospinning device;
- Group II: Claim 11, drawn to nanofibers; and
- Group III: Claims 12-16, drawn to methods for coating nanofiber webs.

In order to comply with the Examiner's Restriction Requirement, Applicant provisionally elects to prosecute Group I, directed to claims 1-10, for prosecution in the present application. Applicant reserves the right to file a Divisional application directed to the non-elected claims at a later date, if so desired.

This requirement for restriction is respectfully traversed for the reasons set forth below.

Applicant respectfully submits that the Examiner has failed to comply with the special rules governing Restriction Requirements in national stage applications filed under 35 U.S.C. § 371, such as the present application. As the Examiner may appreciate, the rules governing restriction practice in national stage applications are different from the restriction practice rules applied to regular U.S. applications.

As the Examiner must appreciate, unity of invention in national stage applications is specifically governed by the provisions of 37 C.F.R. 1.499 and 1.475. For example, 37 C.F.R. 1.475(b)(5) specifically states that:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process. (emphasis added).

Applicant respectfully submits that the product of Group II, the process of Group III, and the apparatus of Group I are related as “a product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said

process,” and therefore they qualify for the exemption to restriction as provided by 37 C.F.R. 1.475(b)(5).

37 C.F.R. 1.475(b)(5) specifically states that the different categories of invention will be considered to have unity of invention, and are thus not restrictable in any way, if they are related as a product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Accordingly, Applicant respectfully submits that this national stage application satisfies the requirements of unity of invention, and therefore a restriction between the two groups is improper.

Also, Applicant respectfully submits that since claims 11-16 depend, either directly or indirectly, from claim 1, they should be examined with claim 1, or rejoined upon allowance of claim 1.

For the above recited reasons, Applicant respectfully requests that the requirement for restriction be reconsidered and withdrawn.

In order to comply with the Examiner's requirement, Applicant has provisionally elected one invention for prosecution in the event the requirement for restriction becomes final, thus preserving the right to petition the requirement for restriction, which petition may be deferred until after final action on or allowance of claims to the invention elected accordingly to 37 C.F.R. 1.144. However, Applicant believes that it will be unnecessary to petition the above requirement for restriction since it is believed that the requirement for restriction will be withdrawn based on the above remarks.

Accordingly, in view of the above remarks, reconsideration of the requirement for restriction and an action on all of the claims in the application are respectfully requested.

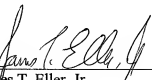
Favorable action on the present application is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone James T. Eller, Jr., Registration No. 39,538, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: November 13, 2009

Respectfully submitted,

By 

James T. Eller, Jr.

Registration No.: 39,558

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant